

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
GAIL HINES,

Plaintiff,

-against-

**RULE 26 INITIAL  
DISCLOSURES**

10 CV 09597 (PAC) (AJP)

THE CITY OF NEW YORK, PRISON HEALTH  
SERVICES, INC., DR. FRANCK LEVEILLE, M.D.,  
NURSE "JANE DOE", CORRECTION OFFICER JANE  
DOE 1, and CORRECTION OFFICER JANE DOE 2,

Defendants.  
-----X

Defendant FRANCK LEVEILLE, M.D. s/h/a DR. FRANCK LEVEILLE, M.D ("Dr. Leveille"), by his attorneys, MARTIN CLEARWATER & BELL LLP, as and for its automatic disclosure states as follows:

**A. The identity of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, and the subject thereof:**

1. Plaintiff Gail Hines (hereinafter "inmate") on the issues of alleged liability and alleged damages.

2. Co-defendant The City of New York (including anyone whose name appears in the NYC Dept. of Corrections medical record, in any incident reports, in any reports/documents prepared by the Dept. of Corrections to/for the NYC Dept. of Investigation, NYPD, or any agency regarding the inmate's allegations of sexual abuse by Dr. Leveille, anyone in the Dept. of Corrections staff or non Dept. of Corrections staff who made oral/written statements regarding the inmate's allegations, anyone who appears in any surveillance/video

taken of the inmate and or Dr Leveille regarding the alleged events) on the issues of alleged liability and alleged damages.

3. Co-defendant Prison Health Services, Inc. (including anyone whose name appears in the NYC Dept. of Corrections medical records) on the issues of alleged liability and alleged damages.

4. Co-defendant Nurse "Jane Doe" on the issues of alleged liability and alleged damages.

5. Co-defendant Correction Officer Jane Doe 1 on the issues of alleged liability and alleged damages.

6. Co-defendant Correction Officer Jane Doe 2 on the issues of alleged liability and alleged damages.

7. Defendant Dr. Leveille on the issues of alleged liability and alleged damages.

8. All of the inmate's subsequent treating physicians as these individuals may have discoverable information on the issues of the alleged claims and the alleged damages, and all those individuals whose names appear in the NYC Dept. of Corrections medical record.

**B. A general description of all documents in the custody and control of the defendant that may be used to support its claims or defenses:**

Dr. Leveille is currently in possession of a copy of the plaintiff's records from the New York City Department of Health and Mental Hygiene and Elmhurst Hospital recently received from plaintiff's counsel. Dr. Leveille is currently not in possession of any other such documents.

**C. A computation of any category of damages claimed by that party:**

Dr. Leveille is currently not in possession of any such documents.

**D. A copy of the insurance policy that may provide coverage for party of all of any judgment that might be entered in this action:**

We have been advised that Franck Leveille, M.D. maintains a healthcare professional liability claims made policy with Lexington Insurance Company, however, exclusions exist under said insurance coverage policy. As a result, we have been advised that defendant Dr. Leveille's insurance policy coverage will not apply to any exclusions under said insurance coverage policy which includes any medical incident, claim or suit arising out of dishonest practices, sexual misconduct, penalties, or failure to provide professional services.

**PLEASE TAKE NOTICE** that pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, defendant Dr. Leveille reserves the right to supplement this response at any time up to, and including, the time of trial.

Dated: White Plains, New York  
May 16, 2011

Yours, etc.

MARTIN CLEARWATER & BELL LLP

By   
Francesca L. Mountain(FM9023)

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**AFFIDAVIT OF SERVICE BY MAIL**

STATE OF NEW YORK            )  
  )  
COUNTY OF WESTCHESTER    )

**Brian T. Marto**, being duly sworn, deposes and says that he is not a party to this action, is over 18 years of age and is an employee in the office of MARTIN CLEARWATER & BELL LLP, attorneys for the defendant FRANCK LEVEILLE, M.D. s/h/a DR. FRANCK LEVEILLE.

That on May 16, 2011, he served the within **RULE 26 INITIAL DISCLOSURES**, upon the following attorneys by depositing a true copy of the same securely enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States at 245 Main Street, White Plains, NY 10601 directed to said attorneys at:

ANDREW F. PLASSE, P.C.  
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PRISON HEALTH SERVICES, INC.  
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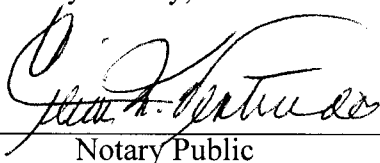
HOWARD EISON, ESQ.  
Assistant Corporation Counsel  
MICHAEL A. CARDOZO  
CORPORATION COUNSEL OF  
THE CITY OF NEW YORK  
100 Church Street  
New York, New York 10007

that being the address within the State designated by them for the purpose of service upon them of the preceding papers in this action, or the place where they then kept an office for regular communication by mail.



\_\_\_\_\_  
**Brian T. Marto**

Sworn to before me on this  
16<sup>th</sup> day of May, 2011

  
\_\_\_\_\_  
Notary Public

**EILEEN M. VENTRUDO**  
Notary Public, State of New York  
No. 60-9458552  
Qualified in Westchester County  
Cert. Filed in New York County  
Commission Expires February 6, 2015